

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

_____)	
CLEMENT WOGHIREN,)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 04-12148 WGY
)	
WYETH and WYETH BIOPHARMA,)	
Defendants.)	
_____)	

DEFENDANTS' REQUEST FOR SUPPLEMENTAL JURY INSTRUCTIONS

Pursuant to Fed.R.Civ.P. 51, the defendants, Wyeth and Wyeth BioPharma requests that this Honorable Court instruct the jury in accordance with the attached, additional jury instruction.

WYETH And WYETH BIOPHARMA,
By Their Attorneys,

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Dated: January 10, 2006

Certificate of Service

I hereby certify that a copy of the foregoing was served upon opposing counsel of record, John Tocci, by hand delivery on January, 10, 2006.

Michael A. Fitzhugh

SUPPLEMENTAL JURY INSTRUCTION

JURY INSTRUCTION NO. 39

(Prima Facie Case Of Discrimination)

To establish a prima facie case of race discrimination under

M.G.L. c.151B, the plaintiff must show that he was:

- (1) a member of a racial minority;
- (2) doing his job acceptably;
- (3) terminated; and
- (4) replaced with a similarly qualified individual.

If the plaintiff fails to prove any one of these four elements, then you must return a verdict for the defendants.

Zhang v. Massachusetts Inst. of Tech., 46 Mass.App.Ct. 597, 604 (1999).